

City Council Minutes Tuesday May 26, 2015

Council President Marchese called the meeting to Order at 7:30 P.M

Attendance:

Present: Brasco, Darcy, III Fowler, LeBlanc, Logan, Marchese, McLaughlin, McMenimen O'Brien, Romard, Stanley, Vizard, and Waddick

Absent: Giordano, Rourke.

City Clerk Russ Malone, Clerked the meeting.

Council Vice President moved approval of the minutes for the May 11, 2015 meeting. Motion was adopted on a voice vote.

Public Hearing

Notice is hereby given that the City Council will hold a joint Public Hearing with the Board of Survey and Planning in the City Council Chamber at City Hall, 610 Main Street, Waltham MA on Monday, April 27th, 2015 at 7:30 pm on the following application:

Pursuant to Section 5 of Chapter 40A of the Commonwealth of Massachusetts General Laws, Waltham City Councillor George A. Darcy III submits the following matter to the Waltham City Council for consideration: AN ORDINANCE AMENDING CHAPTER 21 OF THE GENERAL ORDINANCES OF THE CITY OF WALTHAM ENTITLED "ZONChapter 21 of the General Ordinances entitled "Zoning District Map", as most recently amended, is hereby further amended by striking out the designation "Residence A2 (RA2)" as shown on said map and substituting in place thereof new lines and designation "Conservation/Recreation (CR)" insofar as the said map relates to the following described premises:

The locus is that certain parcel of land known as "939 Trapelo Road" containing 1.426 acres of land more or less, identified in the "Atlas, City of Waltham, Massachusetts 1988" as Map 15, Block 1, Lot 1, with improvements located thereon, situated at the northeasterly corner of Trapelo Road and Bow Street in the City of Waltham, County of Middlesex,

Commonwealth of Massachusetts, and more particularly described as follows:

A parcel of land bounded southerly by Trapelo Road, formerly called North Street, westerly by Bow Street, and northwesterly, northerly and easterly by land of the City of Waltham, and identified as "Lot 2" on a plan entitled "Plan of Land in Waltham & Lexington (Middlesex Co.) Mass.", surveyed for Geraghty & Miller, dated December 2, 1996, Plan No. 379 of 1997, Book 27228, Page 430, and being the same premises conveyed to the County of Middlesex by deed of the Roman Catholic Archbishop of Boston, a corporation sole, dated December 8, 1959, and recorded with the Middlesex South District Deeds, Book 9512, Page 539, and further being the same premises conveyed to the Roman Catholic

Archbishop of Boston by deed of James J. Baxter, dated August 12, 1930, and recorded with the Middlesex South District Deeds, Book 5488, Page 281.

And it is further ordered that the Waltham Massachusetts Zoning District Map be amended to reflect said change in Zoning District. At that time, interested persons may be heard. Complete information regarding this matter is on file at the City Clerk's office at City Hall during regular hours.

Councillor's Leblanc, Brasco, McMenimen and O'Brien publically disclosed for the record that they are parishioners at Our Ladies Church, and that they had no conflict with their ability to impartially participate in the public hearing.

Councillor McMenimen made a motion to amend the hearing notification date from April 27, 2015 to May 26, 2015. Motion was adopted on a voice vote.

This public hearing was a joint meeting with the Waltham City Council and the Waltham Board of Survey and Planning.

Councillor Darcy, from 93 Hobbs Road Waltham MA gave a power point presentation of the area known as 939 Trapelo Road. Councillor Darcy showed a map of the area and noted the potential benefits of reclassifying the area from residence A2 (RA2) to Conservation / Recreation (CR).

President Marchese opened the hearing to the public in attendance. Thirteen residences stood in favor, none opposed.

President Marchese closed that part of the public hearing and opened the floor to hear from Councilor's. Councillor McMenimen had some questions on the re-zoning process. Councillor Waddick noted that the request is to re-zone a parcel that we do not own. Typically the owner would be requested this action and/or on record of supporting such an action.

President Marchese closed the public hearing and referred the matter to the Ordinance and Rules Committee.

Public Hearing

The National grid hereby respectfully requests your consent to the locations of mains as hereinafter described for the transmission and distribution of gas in and under the following public streets, lanes, highways and places of the City of Waltham and the pipes, valves, governors, manholes and other structures, fixtures and appurtenances designed or intended to protect or operate said mains and accomplish the objects of said Company; and the digging up and opening the ground to lay or place same:

To install and maintain approximately 122 feet more or less of 4 inch gas main in Mokema Ave., Waltham from the existing 4 inch gas main at house #34, northerly to house #41 to serve houses #38, #41 and #42.

Mr. David Swett of 28 Mokema Avenue and Barbara Kelleher from National Grid, residing at 581 Ashmont Street Dorchester MA presented the request to add gas service to 28 Mokema Avenue.

President Marchese opened the public hearing to hear from the public in attendance. No residence spoke on the matter. Two stood in favor of the matter.

Ward Councillor Fowler mentioned that this resident is only looking to extend the gas line three houses up the Street. Councillor Logan noted that there was no information from the CPW Department included in the packet. Councillor Darcy asked about the costs of this service. Mr. Swett said he was paying two thousand dollars. Councillor Waddick informed Ms.

Kelleher that he was not happy with National Grid trench / road repair services that have recently been done in Ward six,

President Marchese closed the public hearing and referred the matter to the License and Franchise committee.

Communications from Mayor

TO: The City council
RE: Arrigo Farms

Dear Councillors:

Enclosed please find a communication request from Attorney Bud Shadrawy from City Solicitor John Cervone as well as my previous January 8, 2015 communications.

Please advise as to how you wish me to proceed.

Councillor McLaughlin made a request to have a representative from the Law Department attend the June 1, 2015 Committee of the Whole meeting to provide an update on this matter. Motion was adopted on a voice vote. President Marchese referred the communication to the committee of the whole.

Dear Councillors:

I respectfully request the reappointment of Barbara Rando, 93 Bedford Street, Waltham, MA, as a Member of the Zoning Board of Appeals.

Enclosed please find her letter, resume and Rule 35 Disclosure.

President Marchese referred this matter to the Committee of the Whole.

Dear Councillors:

I respectfully request an appropriation in the amount of \$241,370 from the Winter Rapid Recovery Road Program (WRRRP) that was funded under the Massachusetts Department of Transportation.

These funds will be used for the repaving of Summer Street and Ellison Park.

Attached is a copy of a communication dated May 20, 2015 that was received from the CPW Director. Mr. Chiasson will be available to answer questions concerning this request.

President Marchese referred the matter to the Long Term Debt Committee.

Dear Councillors:

I respectfully request the acceptance of a grant in the amount of \$12,642 through the 2015 Edward Byrne Memorial JAG Program. The purpose of this grant is to enforce “speeding violations” by motorists on the roadways in Waltham. These funds will be used for an educational campaign utilizing electronic media and police personnel costs associated with targeted traffic enforcement throughout the City. This grant does not require matching funds from the City.

Attached is a copy of a letter dated May 14, 2015 that was received from the Chief of Police. Chief MacPherson will be available to answer questions concerning this request.

President Marchese referred the matter to the Finance Committee.

Dear Councillors:

I respectfully request the appointment of Gary R. Parrella of 245 Worcester Lane, Waltham, MA, as a member of the Board of Commissioners of Trust Funds.

Enclosed please find his application and Rule 35 Disclosure.

I am available to answer any questions you may have regarding this request.

President Marchese referred this matter to the Committee of the Whole.

Dear Councillors:

I respectfully request a transfer of funds in the amount of \$89,225 account #001-210-5100-5111 Police - Salaries to account #001-210-5200-5306 Police – Medical Services.

This request is to fund the medical invoices anticipated for the remainder of the fiscal year.

Attached is a copy of a letter that was received from the Chief of Police. Chief MacPherson will be available to answer questions concerning this request.

President Marchese referred this matter to the Finance Committee.

Tabled from 3-9-2015

Draft Minutes from 11/22/14, 10/14/14, and 2/23/15

Councillor Leblanc moved to take this item from the table. Motion was adopted on a voice vote.

Councillor Leblanc moved approval of the 11/22/14 draft minutes. Motion was adopted on a voice vote.

Councillor Leblanc moved approval of the 10/14/14 draft minutes.
Motion was adopted on a voice vote.

Councillor Leblanc moved to table the 2/23/15 minutes. Motion was adopted on a voice vote.

Tabled from 4-27-2015

Zoning Ordinance Amendment parking for animal shelters approved 1st Reading May 4, 2015

Councillor Logan moved to take this item from the table. Motion was adopted on a voice vote

Councillor Logan moved to give this item a first reading. Motion was approved on a voice vote and the item was given a first reading.

Councillor Logan moved to give this item a second reading. Motion was approved on a voice vote and the item was given a second reading.

Since the advertising period was no yet complete Councillor Logan moved to table the item back on the Council floor. Motion was adopted on a voice vote.

Tabled from 5-4-2015

1- Ordinance Amendment 'Restaurant tables & Chairs on sidewalk approved 1st Reading May 4, 2015

Councillor Logan moved to take this item from the table. Motion was adopted on a voice vote

Councillor Logan moved to give this item a second reading. Motion was approved on a voice vote and the item was given a second reading.

Councillor Logan moved to table the item back on the Council floor. Motion was adopted on a voice vote.

Tabled from 5-4-2015

2- Ordinance Amendment “Infiltration and inflow mitigation fee”
approved 1st Reading May 4, 2015

Councillor Logan moved to take this item from the table. Motion was adopted on a voice vote

Councillor Logan moved to give this item a second reading. Motion was approved on a voice vote and the item was given a second reading.

Councillor Logan moved to table the item back on the Council floor. Motion was adopted on a voice vote.

New Business

Interstate Tower Communications, Inc. Pinnacle Towers, Inc, PMB-353 of 4017 Washington Road, McMurray, Pennsylvania, Crown Castle USA, Inc. of 500 W. Cummings Park, Suite 3600, Woburn, Massachusetts and Industrial Communications and Electronics Inc., 40 Lone Street, Marshfield, Massachusetts hereby petitions the City Council for a Special Permit to install, operate and maintain a wireless communication facility on the existing lattice tower located on the property at 39 Sachem Street. Under the shot clock rule we have thirty days for Law Dept. review of the application. The City Clerk is asking for approval to send the application to the Law Dept. for review. (The Public Hearing is scheduled for June 8, 2015)

Councillor Logan moved to suspend rule 39. Motion was approved on a voice vote.

Councillor Logan moved to have the item sent to the Law Department for review. Motion was approved on a voice vote.

Resolutions

Councillor Logan presented a resolution to establish a Cultural District in downtown area. Councillor Marchese, Leblanc and Waddick signed on to the resolution. President Marchese referred the item to the Committee of the Whole.

Councillor Waddick presented a resolution asking the Mayor and the City Engineer to identify a funding source to mediate the sewer backup issues in the Oakley Lane and Valley view road area. Councillor Waddick also had a request to invite the Mayor and the City Engineer into the June 1st 2015 Long term Debt Committee meeting to discuss this matter. The request was approved on a voice vote. President Marchese referred the matter to the Long Term Debt Committee.

Committee Reports

License and Franchises

1- That the renewal of a Lodging House License, 532 Main St. BE **APPROVED**

The Committee recommendation was approved by the City Council on a voice vote.

2- That the renewal of a Lodging House License 755 Main St. BE **APPROVED**

The Committee recommendation was approved by the City Council on a voice vote.

3- That the renewal of a Lodging House License 556 Main St. BE **APPROVED**

The Committee recommendation was approved by the City Council on a voice vote.

4- That the renewal of a Lodging House License 21-23 Pine St. BE the Committee recommendation was approved by the City Council on a voice vote.

5-That the renewal of a Lodging House License 124-126 Ash St.
BE APPROVED

The Committee recommendation was approved by the City Council on a voice vote.

6- That the renewal of a Lodging House License 74 Adams St. **BE APPROVED**

The Committee recommendation was approved by the City Council on a voice vote.

7-That the renewal of a Lodging House License 109 Adams St.
BE APPROVED

The Committee recommendation was approved by the City Council on a voice vote.

8- That the renewals of all Lodging House Licenses (Brandeis Dorms)
BE APPROVED

The Committee recommendation was approved by the City Council on a voice vote.

Finance Committee

The Finance Committee recommends transfer of funds \$20,571. For FY2015 Water Consultants (\$15,000) and Water Meters (\$5,571)
BE APPROVED

The Committee recommendation was approved by the City Council on a voice vote.

The Finance Committee recommends, Accept HMEP Grant for Emergency Management \$2,000. **BE APPROVED**

The Committee recommendation was approved by the City Council on a voice vote.

The Finance Committee recommends, Accept Pre-Arrest Jail Diversion Grant for Police \$45,000. **BE APPROVED**

The Committee recommendation was approved by the City Council on a voice vote.

Ordinances and Rules

1-The Ordinance and Rules Committee Recommends That the Resolution Blight Ord. BE DISCHARGED

Councillor Logan made a motion to have this item recommitted. Motion was adopted on a voice vote.

2- The Ordinance and Rules Committee Recommends That the Resolution DEP Consent Order BE PLACED ON FILE

Councillor Logan made a motion to have this item filed. Motion was adopted on a voice vote.

3 - The Ordinance and Rules Committee Recommends That the Resolution amending Sec. 17-18 BE PLACED ON FILE

The Committee recommendation was approved by the City Council on a voice vote.

4- The Ordinance and Rules Committee Recommends That the Resolution violations of S.P 487 Main St. BE PLACED ON FILE

The Committee recommendation was approved by the City Council on a voice vote.

5- The Ordinance and Rules Committee Recommends That the Banks Zone change and other documents BE PLACED ON FILE

The Committee recommendation was approved by the City Council on a voice vote.

6- The Ordinance and Rules Committee Recommends That the Zoning Amendment Fast Food BE PLACED ON FILE

The Committee recommendation was approved by the City Council on a voice vote.

7- The Ordinance and Rules Committee Recommends That the Special Permit Willow St. BE DENIED

Councillor Logan read the reason for denial into the record. A roll call was taken for denial. Thirteen Councillor's voted in favor of denial, Councillor Giordano and Rourke were absent.

8- The Ordinance and Rules Committee Recommends That the Special Permit reduce size of Fast Food 1019 Trapelo Rd. **BE APPROVED**

A roll call was taken to approve this special permit. Thirteen Councillor's voted in favor of approval. Councillor's Giordano and Rourke were absent.

9- The Ordinance and Rules Committee Recommends That the Special Permit Lincoln Cooper Street LLC Cooper and Elm St **BE APPROVED**

Councillor and Chairman of the rules and Ordinance Committee Logan presented new conditions (22, 23, 24, 25 and 26) to the special permit. These conditions were read into the record.

New Conditions:

22. Fire Hydrants: There are currently four existing fire hydrants within 200 feet of the locus. The Petitioner shall leave two of these in their existing location and shall relocate two of these as shown on the Plans. The Petitioner shall also install a new (fifth) fire hydrant as also shown on the Plans.
23. The Building:
 - a. The FAR of the building shall not exceed 1.53; and
 - b. The height of the building shall not exceed 65 feet, nor shall the building exceed six (6) stories.
24. Access and Egress: The Petitioner shall maintain the access and the egress for the Building on both Elm Street and on Cooper Street.
25. Signs: All exterior signage, locations, types and sizes shall be as set forth on the Signage Summary Chart (Signage Plan – Sheet 5.1).

26. Screening and Noise Reduction: The utilities on the top of the Building shall be properly screened from the streets below and shall comply with the requirements of the City's Noise Ordinance.

Councillor Logan also presented one amended condition, condition #16. This was also read into the record. A copy of these new conditions, and the one amended condition were given to all Councillor's.

Amended Conditions:

Condition #16. is amended by deleting the existing subsection "a" and inserting a new subsection "a" to read as follows:

- a. 10 % of the units (26 units, provided however if the number of units in the Building are reduced there shall also be a reduction in the number of affordable units to correspond to the 10% requirement) constructed shall be "affordable", and 5 % of these affordable units shall be handicapped accessible and /or adaptable.

Councillor Logan mentioned that this project would bring significant improvement for the ward nine residents in this area as well as to the downtown area. The new development will be located in the area that now consists of two parcels. One parcel is the old Longview Fiber, which currently sits dormant, and the other one is currently being operated as a bark mulch delivery facility owned and operated by Boston Bark. Councillor Logan emphasized how the new development consisting of high-end residential housing will be a dramatic improvement to the current conditions, and uses of the two parcels. Councillor McMenimen spoke in opposition to the special permit. Councillor McMenimen mentioned that the Law Departments comments have not been addressed to date. Councillor McMenimen also mentioned that the lots have not been combined yet and that all these issues should be addressed before final approval.

President Marchese asked for a roll call vote to be taken for rule 35. Council rule 35 allows someone to speak for longer than fifteen minutes on a matter. A roll was taken, Voting in favor were Councillor's, Darcy, Fowler, LeBlanc, Logan, McLaughlin, McMenimen, O'Brien, Romard, Vizard, Waddick and President Marchese.(11) Opposed, Stanley (1). Absent Brasco, Giordano, and Rourke. (3). Councillor McMenimen continued to speak in opposition to the special permit.

Councillor Darcy spoke in opposition to approving this special permit at this time. Councillor Darcy mentioned that information had just been received this past Friday from the Law Department, and it would be premature to approve this special permit at this time.

Councillor Fowler spoke in support of the special permit. Noting that this development will clean up the Longview Fiber parcel, which will be a major benefit for Waltham. Councillor Fowler also noted that the DEP and the Conservation Committee will get involved in the process after the Council process is completed.

Councillor O'Brien spoke in support of the special permit noted that this site is in dire need of costly cleanup and that this project will do that, and in turn be a benefit for this area.

Councillor Waddick also spoke in support of the special permit noted that this project will bring increased vitality to the downtown area and is a good example of smart growth. Councillor Logan responded to Councillor's previous comments. Councillor Logan made a motion to collectively amend the draft decision and approve the special permit.

A roll call was taken. Voting in favor were Councillors, Brasco, Fowler, LeBlanc, Logan, McLaughlin, O'Brien, Romard, Stanley, Vizard, Waddick (10) Opposed were , Councillor's Darcy and McMenimen (2). Absent were Councillor's Giordano, and Rourke. (2), Council President Marchese did not vote.

10- The Ordinance and Rules Committee Recommends That the Special Permit Time Extension for One year for BP Third Ave. 214 Third Ave. BE APPROVED

A roll call vote was taken. Voting in favor were Councillors, Brasco, Darcy, Fowler, LeBlanc, Logan, McLaughlin, McMenimen, O'Brien, Romard, Stanley, Vizard, Waddick (12) Non opposed.

Absent were councillor's Giordano, and Rourke.(2). Council President Marchese did not vote.

11- The Ordinance and Rules Committee Recommends That the Draft Zoning Amendment Asst. Director Human Services **BE GIVEN A 1st READING**

Councillor Logan made a motion to have this item sent to the Law Department for review. Motion was adopted on a voice vote. Councillor Logan made a motion to have this item recommitted to Ordinance and Rules Committee. Motion was adopted on a voice vote.

Public Works

1-The Public Works Committee Recommends that the Resolution regarding pavement management **BE PLACED ON FILE**
Chairman Vizard made a motion to file this matter. Motion was adopted on a vote.

Long Term Debt

Long Term Debt. Recommends that the Loan Order in the amount of \$240,000. (Cultural Center Roof) **BE GIVEN A SECOND READING**

Chairman Waddick made a motion to give this matter a final reading. A roll call vote was taken. Voting in favor were Councillors, Brasco, Darcy, Fowler, LeBlanc, Logan, McLaughlin, McMenimen, O'Brien, Romard, Stanley, Vizard, Waddick (12) Non opposed. Absent were Councillor's Giordano, and Rourke.(2). Council President Marchese did not vote.

Long Term Debt. Recommends that the appropriation in the amount of \$240,000. (Cultural Center Roof) **BE APPROVED**
Chairman Waddick moved approval of the matter. Motion was adopted on a voice vote.

Committee of the Whole

Committee of the whole recommends the appointment of Sarah Hankins as

Associate Member to ZBA **BE APPROVED.**

Vice President Leblanc made a motion for approval. A roll call was taken. Voting in favor were Councillors, Brasco, Darcy, Fowler, LeBlanc, Logan, McLaughlin, McMenimen, O'Brien, Romard, Stanley, Vizard, Waddick and President Marchese. (13) Non opposed. Absent were Councillor's Giordano, and Rourke.(2). .

Committee of the whole recommends the resolution F.O.G. ordinance To form ad-hoc committee **BE APPROVED**

Vice President Leblanc made a motion for approval. Motion was adopted on a voice vote.

Committee of the whole recommends the resolution 4,000 gal oil spill **BE PLACED ON FILE**

Vice President Leblanc made a motion to file. Motion was adopted on a voice vote.

Committee of the whole recommends the resolution for the property Located at 67 Crescent that the CPA Application for 67 Crescent Street - **BE APPROVED**

ALSO - Request for appraisal for 67 Crescent Street – **BE APPROVED**

Vice President Leblanc made a motion for approval of the CPC application. Motion was adopted on a voice vote. A roll call was taken. Voting in favor were Councillors, Brasco, Darcy, Fowler, LeBlanc, Logan, McLaughlin, McMenimen, O'Brien, Romard, Stanley, Vizard, Waddick and President Marchese. (13) Non opposed. Absent were councillor's Giordano, and Rourke.(2). .

Vice President Leblanc made a motion for approval of the CPC appraisal for 67 Crescent Street. Motion was adopted on a voice vote.

Councillor Romard informed the Council about a Ward One initiative aimed at improving the Street scape along road ways in his ward. He indicated that he would keep the Council apprised on the success of the program

With no further matters before the City Council, Council President Marchese asked the wish of the council. Councillor O'Brien moved to adjourn. The motion was adopted on a voice vote. Council President Marchese declared the meeting closed at 10:47 P.M

Respectfully Submitted by:
Thomas J. Magno, Clerk Pro Tem
May 26, 2015.